

REMARKS

Claims 1 to 3 are pending in the present application. Applicants respectfully submit that the pending claims are patentable for the following reasons and reconsideration is respectfully requested.

I. Rejection of Claims 1 to 3 Under 35 U.S.C. §102(b)

Claims 1 to 3 were rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent Number 4,212,686 ("Lunde et al."). Applicants respectfully submit that Lunde et al. does not anticipate claims 1 to 3 for the following reasons.

Claim 1 recites a zirconium based alloy also containing, by weight-Fe and at least one of the elements selected from the group consisting of Cr and V, a total of the contents in Fe and Cr + V being 200 to 700 ppm; 0.8% to 1.3% by weight of niobium, 1100 to 1700 ppm of oxygen, less than 100 ppm of carbon, 10 to 35 ppm of sulfur, less than 50 ppm of silicon and tin content 100 ppm or less in weight.

The support for the amendment to claim 1 is found, for example, on page 2, line 25 to page 5, line 36. Applicants further submit that the sentence on page 3, lines 23 and 24 further provide such support. Applicants respectfully submit that that amendments to claim 1, as well as to claim 2, are consistent with the specification as the specification notes that Fe, Cr and V are always considered together and are associated with the same precipitates. Applicants respectfully submit that the individual contends of Cr and V have been precisely specified. Applicants have amended claim 1 to remove the typographical error of the second "and" noted on page 3 of the Office Action. Applicants further note that the claim 2 did not have the same defect, and that the elimination of the typographical error is not new matter. Applicants further submit that the last two pages of the specification are devoted to individual contents of the other elements, each of them is justified with distinct amounts and requirements. As is provided in the specification, these elements are disconnected from Cr and V and are not placed indistinctly within a same group. Applicants further submit that it would have been illogical to not specify the individual contents of Cr and V while the

contents of Nb, O, C, S, Si and Sn are specified if all of the elements were to be included within the same group. On the contrary, however, an absence of precision on individual Cr and V contents would be consistent with these elements belonging to the same group than Fe with the total content of the group being between 200 to 700 ppm.

Lunde et al. relate to zirconium alloys. Title. Lunde et al. provide zirconium alloys that are characterized by their corrosion resistance and mechanical properties consisting essentially of .25 to 1.5% by weight of niobium, 0.025 to 0.20% by weight of tin, 0.02 to 1.00% by weight of total chromium and molybdenum, each of said chromium and molybdenum being present in respective amounts of at least 100 ppm for chromium and 45 ppm for molybdenum and the remainder of zirconium. Lunde et al. always require the presence of molybdenum, different than the requirements of the present invention. Moreover, Lunde does not disclose, or even suggest, sulfur levels as provided in the present invention.

As regards this anticipation rejection, to reject a claim as anticipated the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See, Scrips Clinic & Research Foundation v. Genentech, Inc., 18 U.S.P.Q.2d 101, 1010 (Fed. Cir. 1991)).

As Lunde et al. does not disclose or suggest such a configuration, applicants respectfully request withdrawal of the rejection to claim 1.

Claim 3 depends from claim 1 and therefore includes the features of claim 1. Applicants respectfully submit that claim 3 is patentable for at least the reasons provided above in relation to claim 1. Claim 2 has been amended such that it provides features as recited in claim 1. Applicants respectfully submit that claim 2 is patentable for at least the reasons provided above in relation to claim 1.

II. **Conclusion**

In view of the foregoing, it is respectfully submitted that all pending claims of the present application are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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